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8 **UNITED STATES DISTRICT COURT**

9 EASTERN DISTRICT OF CALIFORNIA

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11 DENNIS CAPPS,

12 Petitioner,

13 v.

14 CIOLLI,

15 Respondent.

Case No. 1:20-cv-00766-AWI-SAB-HC

ORDER DIRECTING CLERK OF COURT
TO SEND PETITIONER A COPY OF
RESPONDENT'S MOTION TO DISMISS
(ECF No. 10)

ORDER SETTING BRIEFING SCHEDULE

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17 Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus
18 pursuant to 28 U.S.C. § 2241.

19 On October 13, 2020, Respondent filed a motion to dismiss the petition. (ECF No. 10).
20 On March 25, 2021, the issued findings and recommendation, noting therein that “[t]o date, no
21 opposition has been filed, and the time for doing so has passed.” (ECF No.11 at 2).¹ On April
22 12, 2021, the Court received Petitioner’s objections, in which Petitioner states that he never
23 received Respondent’s motion to dismiss. (ECF No. 12 at 2).

24 A review of the docket reflects that Respondent did not file a certificate of service along
25 with the motion to dismiss.

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28 ¹ Page numbers refer to the ECF page numbers stamped at the top of the page.

1 Accordingly, the Court HEREBY ORDERS that:

- 2 1. The Clerk of Court is DIRECTED to send Petitioner a copy of Respondent's motion to
3 dismiss (ECF No. 10);
- 4 2. Within twenty-one (21) days of the date of service of this order, Petitioner SHALL FILE
5 an opposition or statement that he relies on the arguments set forth in his objections (ECF
6 No. 12) as an opposition; and
- 7 3. Any reply to an opposition to the motion to dismiss shall be filed within seven (7) days
8 after the opposition or statement of reliance on the objections is served.

9
10 IT IS SO ORDERED.

11 Dated: May 7, 2021


UNITED STATES MAGISTRATE JUDGE